

I. CDC Eviction Protections

- CDC protections through July 31, likely to be final extension
 - Income under \$99,000/yr or IRS non-filer or received Stimulus check
 - Used best efforts to obtain government rent assistance
 - Unable to pay full rent due to income loss or high medical expenses
 - Will use best efforts to pay timely partial rent
 - Would become homeless or live in close quarters if evicted
 - Signs and provides CDC Declaration to landlord
- CDC Declaration at – <https://www.cdc.gov/coronavirus/2019-ncov/covid-eviction-declaration.html>
- All court orders striking down CDC eviction protections appealed & orders stayed – on 6/29 U.S. Supreme Court left in place a temporary stay on a lower court ruling invalidating CDC eviction protections

I. CDC Eviction Protections

- **Tenants still can be evicted for reasons other than nonpayment of rent – landlord may have some other reason to evict, so tenants should follow every lease term allowed by law**
- **Tenant may not be evicted for “trespassing”**
- **Tenant may be evicted due to lease expiration or holdover, unless the reason is a pretext**
- **If a landlord pursues eviction after receiving the tenant’s declaration, the tenant may seek legal help**
- **Penalties for violation of CDC eviction moratorium apply to both landlord and tenant**

II. Nonpayment Notices and Payment Plans

- **All landlords required to provide 14-day nonpayment notices to tenants late on rent – an increase from the past 5-day notice**
- **Landlords with more than four rental units must offer payment plans to tenants late on rent – change from the past when such plans were not required to be offered**
 - **Once every lease term**
 - **Paying off rent due in equal installments over six months or until lease ends (whichever is sooner)**
- **Both requirements continue through 6/30/22**

III. State Budget Eviction Protection Language ended 7/1/21

- After 6/30, landlords not required to apply for RRP on behalf of tenants
- Also after 6/30, landlords not required to inform tenants about RRP in the 14-day nonpayment notice
- Landlords still can and should do so both of these voluntarily
- In many cases, burden of applying for RRP shifts from landlord to tenant
- Tenants should apply for RRP at <https://www.dhcd.virginia.gov/rmrp>
- Chesterfield Co tenants apply for RRP at <http://actsrva.org/chesterfield-emergency-rent-and-utility-assistance-cera>
- Fairfax Co tenants at <https://www.fairfaxcounty.gov/neighborhood-community-services/coordinated-services-planning>

III. State Budget Eviction Protection Language ended 7/1/21

- If landlord does not cooperate with RRP & files an eviction lawsuit, the tenant may go to court & bring written proof of RRP application
- Tenant may use RRP application to ask the judge to apply the mitigation of damages rule
- Rule requires a party who has not breached a contract to minimize damages when the other party breaches the contract
- Court may refuse to award damages that reasonably could have been avoided
- Rule applies in landlord-tenant cases involving nonpayment of rent
- As of 7/1/2020, Virginia's Fair Housing Law prohibits landlords from refusing to accept rent based upon the source of the funds

IV. Virginia Rent Relief Program (RRP)

Basic Eligibility Requirements:

- **Household income at or below 80% Area Median Income**
- **Rent amount at or below 150% Fair Market Rent**
- **Loss of income related to COVID-19, or increase in expenses related to COVID-19**
- **Overarching goal is to prevent spread of COVID-19 by keeping tenants housed**

IV. Virginia Rent Relief Program (RRP)

Required documentation:

1. Rental Agreement (valid lease or alternative lease documentation) which must include:

- **Tenant and Landlord's full names**
- **Monthly rent amount**
- **What is included in the monthly rent (e.g., utilities, Internet, etc.)**
- **Term of the lease (i.e., what month and year does the agreement begin and end)**

2. Tenant/Landlord Ledger

3. Tenant Income Documentation

4. Landlord's Virginia W-9

5. RRP Landlord/Tenant Agreement

IV. Virginia Rent Relief Program (RRP)

Rental Assistance Paid:

- **Paid directly to landlord no matter who applies**
- **Rent arrears paid back to 4/1/2020 – limit of 15 months assistance**
- **Current and up to three months' future rent paid upon application approval**
- **3 months' rent paid at a time upon renewal**
- **Housing Choice Voucher holders can receive rent payment for current month and any arrears back to April 1, 2020 once their income recertification process has been completed**

V. COVID-19 Relief under HB 340 through 9/28/21

- **Protections to tenants affected by loss of income due to COVID-19 state of emergency (started 3/12/2020 and ended after 6/30/21)**
- **Not currently receiving the same wages or payments as before**
- **If sued to evict for nonpayment of rent unpaid during COVID-19 state of emergency, tenant can get case postponed 60 days**
- **Come to court with written proof of reduced income or payments**
 - **Paystub showing reduced income,**
 - **Furlough letter,**
 - **Letter showing non-essential employee, or**
 - **Any other document acceptable by the court**
- **Effective April 22, 2020**
- **Protection ends after 9/28/21 - 90 days after state of emergency ends**

VI. Three More Eviction Protections

- **Landlord may not evict a tenant without following court eviction process**
- **After eviction lawsuit for nonpayment of rent, tenants have the right to pay to zero balance on or before the court date and have lawsuit dismissed (redemption to “pay and stay”)**
- **After that, tenants have the right to pay to zero balance up to 48 hours before a Sheriff’s eviction and have eviction cancelled (extended redemption to “pay & stay”)**
 - **Tenants of large landlords (5 or more units) have no limit on redemption**
 - **Tenants of small landlords (4 or fewer units) may use redemption once in any 12 month period**
 - **Termination notices must have language explaining these rights**

VII. Conclusion

- **The \$1.1 billion Virginia Rent Relief Program is an unprecedented bonus to landlords and their tenants**
- **No other businesses – such as car dealers, credit card companies, and utility companies – have received such largess**
- **Census survey of Virginia residents found 25% of tenants with little or no confidence in ability to pay next month's rent**
- **DHCD awarded \$3.5 million to HOME for subgrant to legal aid & others to fund about 50 Housing Navigators statewide to assist applicants for RRP**
- **Tenants & landlords should apply for and/or cooperate with rent relief due to this unique opportunity to enter our post-pandemic world with increased housing stability**